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## Costs Decision

Site visit made on 5 October 2022

**by M Aqbal BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 December 2022**

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### **Costs application in relation to Appeal Ref: APP/B1930/W/22/3291436 Hornbeam Wood, Common Lane, Batford, Harpenden AL5 5FF**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Martin Maylin for a full award of costs against St Albans City & District Council.
  - The appeal was against a condition on a planning permission for conversion of existing stable to single dwelling to be used ancillary to the existing use of the site, and associated alterations.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicants' application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense, for the reasons considered below.
4. In respect of the description of the proposal, I have addressed this as part of my Decision on the appeal. Based on the submissions before me, the amended description for the proposal was agreed with the applicant. The applicant was also given the option to retain the description as originally proposed and to have the application determined on this basis.
5. Even though Paragraph 150 d) of the National Planning Policy Framework sets out an exception for development in the Green Belt, this is subject to preserving its openness and not conflicting with the purposes of including land within it. In dealing with the applicant's planning application and in particular, given the extent of the appeal site as shown on the submitted 'Site Location Plan Rev A', the LPA concluded that the use of the stable block as an independent dwelling could harm openness and would therefore conflict with one of the purposes of the Green Belt, which is a matter of planning judgement. Irrespective of this, the proposal was determined on the basis of the agreed description for the development.
6. The applicant argues that in determining a separate planning application for a site (Bowesbury), a dwelling was allowed without a condition limiting the

occupancy of that dwelling. Whilst I do not have the full details of that scheme and others referenced in the appeal submissions, the scheme before me is for ancillary accommodation for an extant animal sanctuary use and therefore is not directly comparable to these examples.

7. Furthermore, despite the LPA not being able to demonstrate a five-year supply of deliverable housing sites and not having an up-to-date local plan, since the permission granted is explicitly for a dwelling that is ancillary to the existing sanctuary use, it follows that the approved dwelling cannot be occupied independently of the sanctuary use. Therefore, irrespective of the disputed condition, the approved scheme would not deliver a new independent dwelling.
8. Notwithstanding the concerns the applicant has raised in respect of the wording and reason for it, based on my Decision on the appeal, the disputed condition does no more than to formalise and clarify the nature of the permission granted.
9. Paragraph 050 (reference ID: 16-050-20140306) of the PPG states: Where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.
10. In light of the above reasons and my findings in respect of the applicant's appeal, the LPAs approach to determining the application which is the subject of the appeal before me does not constitute unreasonable behaviour.
11. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

*M Aqbal*  
INSPECTOR